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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/912,586 | 07/24/2001 | Elizabeth Belva Hamel | SVL920010010US2 | 7180 |

7590 03/28/2005

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| EXAMINER | |
|---|---|
| PHAM, KHANH B | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2167 | |

DATE MAILED: 03/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| Advisory Action Before the Filing of an Appeal Brief | Application No. 09/912,586 | Applicant(s) HAMEL ET AL. | |
|---|---|---|---|
| | Examiner Khanh B. Pham | Art Unit 2167 | |

*--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

THE REPLY FILED 14 March 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: *None*.
   Claim(s) objected to: *None*.
   Claim(s) rejected: *1-24*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

Luke S. Wassum
Primary Examiner

Continuation of 11. does NOT place the application in condition for allowance because:
Claims 1-2, 6-10, 14-18, 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over IBM Corporation ("Datajoiner: a Multidatabase Server Version 1), hereinafter "IBM", and in view of Hejlsberg et al. (US 6,151,602) (See Final Office Action Dated 1/13/05)
Claims 3, 11, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over IBM and Hejlsberg as applied to claims 1-2, 6-10, 14-18, 22-24 above, and further in view of Gottemukkala ("Interfacing Parallel Applications and Parallel Databases"), hereinafter "Gottenmukkala"
Claims 4-5, 12-13, 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over IBM and Hejlsberg as applied to claims 1-2, 6-10, 14-18, 22-24 above, and further in view of Vassilakis et al. ("Implementing Embedded Valid Time Query Languages") .

Applicant argued that Hejlsberg reference does not teach "a software server having multi-database access to DBMSs multi-database access communication protocol, as claimed in element (a) and (c)". However, the examiner respectfully submits that the Office Action did not relied on Hejlberg for the teaching of the limitations listed above. The examiner instead relied on the "IBM" reference which teaches "a software server having multi-database access to DBMS" at page 11, Fig. 4 and "transporting data via the database connection communication line according to a multi-database access communication protocol" at page 12, 1st paragraph.
Applicant argued that "Hejlsberg does not transfer data record-by-record but packet-by-packet". On the contrary, Hejlsberg uses data packets for transmitting data from a database using sequential or streaming method, wherein data is transmitted "one piece of information at a time" at Col. 7 lines 30-37. Hejlsberg teaches at Fig. 4 a layout of a data packet includes row data 430. Therefore, "piece of information" correspond to row data, and Hejlsberg's packet-by-packet data transfer is same as row-by-row, or record-by-record as claimed.
Applicant argued that Hejlsberg does not teach: "target site loading of records occurs concurrently with the unloading of records in the source site". On the contrary, Hejlsberg teaches at Col. 7 line 66 to Col. 8 line 10 that "a data packet representing ordinary data can be "partial", meaning the total data content is divided into multiple data packets", and "the subsequent data packets merely include an data packet identifier and data rows". Since the data rows (i.e., records) are divided into multiple data packets, when client receives and unloads the first data packet contains the first set of record, the next sets of record are still streaming out of the source site. Therefore, the target site loading of records occurs concurrently with the unloading of records in the source site as claimed.

In response to applicant's argument that there is no suggestion to combine the references and applicant's statement that "it is required by law that the motivation to combine the references must be found in the referenced prior art before the references can be combined", the examiner respectfully submits that this statement is incorrect. The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both Hejlsberg and "IBM" teaches a three tiers architecture for responding to SQL requests from a client to a database system (See Hejlsberg's Fig. 3 and IBM's Fig. 4). Hejlsberg suggests using streaming data packet to transmit row data to client, one piece of information at a time, because "this approach allows the system to process data while if is still being received". It is also well known to one of ordinary skill in the art that streaming format allows client system to load data concurrently with the unloading of data from the server. For example, streaming video format allows user to view full motion video immediately after the first set of frames is loaded at the client system, while the next sets of frames are unloaded from the server, without waiting for receiving of all of the frames. The IBM's system is implemented mostly using TCP/IP protocol (See IBM's page 11), meaning data is transmitted across the Internet, therefore, modification of the IBM's system as suggested by Hejlsberg would reduce user's waiting time for data to arrive, especially "for data being received across the Internet", as suggested by Hejlsberg at Col. 7 lines 30-37.

In response to applicant's argument that Hejlsberg is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See In re Oetiker, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, as discussed above, both Hejlsberg and "IBM" teaches a three tiers architecture for responding to SQL requests from a client to a database system (See Hejlsberg's Fig. 3 and IBM's Fig. 4). Applicant's invention is an improvement of the IBM reference's system, whereas the Hejlsberg reference also teaches a system including many elements of the invention of claims 1 such as "source site" (Fig. 3, 355), "target site" (Fig. 3, 310), database server (Fig. 3, 350). Hejlsberg is therefore analogous art and the 103 rejections are proper.

In responses to applicant's statement that "Applicant challenges the Office Action "would have been obvious" allegation used to reject all claims of the present invention under Sec. 103 and, as allowed under MPEP Sec. 2144.03, respectfully requests that the Examiner cites prior art references which support all these "would have been obvious" allegations and show how modifications can be accomplished and what motivation was used to modify a reference to arrive at the claimed subject matter and to show how this combination of modified references functions and which structure it has", the examiner respectfully refers applicants to section 6-8 of this Office Action, which show how the examiner interprets claimed limitations, and portions of the references correspond to claimed limitations, what teachings are lacking in the references, as well as motivations for combining references and why it is obvious to combine references.

In response to applicant's argument that "non of the referenced prior art teaches elements of claims 1, 9 and 17 and their combination is invalid, there is no valid reason for rejection of these independent claims and claims dependent thereof". The examiner respectfully submits that applicant's arguments only amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Applicants are referred to section 6-8 of this Office Action which show how the examiner interprets claimed limitations, and portions of the references correspond to claimed limitations, what teachings are lacking in the references, as well as motivations for combining references and why it is obvious to combine references. A prima facie case of obviousness has been established and the 103 rejection of claims 1, 9, 17 is proper and should be maintained.

Regarding claims 2, 10, 18, Applicant argued that the rejection of claims 2, 10, and 18 is improper because the prior art reference does not perform all elements of the independent claims 1, 9 and 17.

On the contrary, as discussed above, the 103 rejection of claims 1, 9, and 17 is proper and therefore the 103 rejection of claims 2, 10 and 18 should also be sustained.

Regarding claims 6, 14, 22, Applicant argued that the rejection of claims 6, 14 and 22 is improper because the prior art reference does not perform all elements of the independent claims 1, 9 and 17. On the contrary, as discussed above, the 103 rejection of claims 1, 9, and 17 is proper and therefore the 103 rejection of claims 6, 14 and 22 should also be sustained.

Applicant argued that the rejection of claims 7, 15 and 23 is improper because the prior art reference does not perform all elements of the independent claims 1, 9 and 17. On the contrary, as discussed above, the 103 rejection of claims 1, 9, and 17 is proper and therefore the 103 rejection of claims 7, 15 and 23 should also be sustained.

Applicant argued that the rejection of claims 8, 16, 24 is improper because the prior art reference does not perform all elements of the independent claims 1, 9 and 17.

On the contrary, as discussed above, the 103 rejection of claims 1, 9, and 17 is proper and therefore the 103 rejection of claims 8, 16 and 24 should also be sustained.

Regarding claims 3, 11, 19, Applicant argued that Gottenmukkala does not teach "concurrent record-by-record data transfer into partitioned tables that receive the data as claimed". On the contrary, the examiner relied on the Gottenmukkala reference only for the teaching of "data loading being perform in a pipeline manner, loading data records in multiple partitions with a plurality of parallel streams, pointed to by a plurality of data source partition cursor" as taught by Gottenmukkala at page 2, Col. 1 and Figs. 2-7. The other limitations such as "concurrent record-by-record" are taught by IBM and Hejlsberg, as discussed above.

Applicant also argued that the rejection of claims 3, 11 and 19 is improper because the prior art reference does not perform all elements of the independent claims 1, 9 and 17. On the contrary, as discussed above, the 103 rejection of claims 1, 9, and 17 is proper and in view of the argument discussed above, the 103 rejection of claims 3, 11 and 19 should also be sustained.

Regarding claims 4, 12, 20, Applicant argued that Vassilakis does not teach: "concurrent record-by-record data transfer in a multi-database DBMS". On the contrary, the examiner relied on the Vassilakis reference only for the teaching of "the block of SQL statements comprises dynamic executable SQL statements performing in the EXECUTE IMMEDIATE mode" as taught by Vassilakis at page 7. The other limitations such as "concurrent record-by-record" are taught by IBM and Hejlsberg, as discussed above. Further, similar to IBM and Hejlsberg's teaching, Vassilakis teaches a method for using SQL to retrieve data from database "a row-at-a-time" at follows:

"Cursors provide a row-at-a-time interface to the database. Using cursors, an application may obtain addressability to tuples stored in the database (one tuple at a time)..." (page 3, section 2.2.)

Applicant also argued that the rejection of claims 4, 12 and 20 is improper because the prior art reference does not perform all elements of the independent claims 1, 9 and 17. On the contrary, as discussed above, the 103 rejection of claims 1, 9, and 17 is proper and in view of the argument discussed above, the 103 rejection of claims 4, 12 and 20 should also be sustained.

Regarding claims 5, 13, 21, Applicant also argued that Vassilakis does not teach: "concurrent record-by-record data transfer in a multi-database DBMS". On the contrary, the examiner relied on the Vassilakis reference only for the teaching of "the block of SQL statements comprises: a SQL DECLARE CURSOR FOR SELECT statement, for defining a cursor referencing separately each SELECT statement result record unloading from the server site, and a LOAD command and an operator INCURSOR with the same cursor name for pointing to the receiving record at the target site". However, Vassilakis teaches a method of using SQL to retrieve data from database "a row-at-a-time" similar to IBM and Hejlsberg's teaching using "a SQL DECLARE CURSOR FOR SELECT statement, for defining a cursor referencing separately each SELECT statement result record unloading from the server site, and a LOAD command and an operator INCURSOR with the same cursor name for pointing to the receiving record at the target site" at page 2, section 2.2. As noted by Vassilakis, "using cursors, an application may obtain addressability to tuples stored in the database (one tuple at a time), fetch data values into its address space, as well as delete or modify the tuples"(page 3, section 2.2). The other limitations such as "concurrent record-by-record" are taught by IBM and Hejlsberg, as discussed above. Further, similar to IBM and Hejlsberg's teaching, Vassilakis teaches a method for using SQL to retrieve data from database "a row-at-a-time" at follows:

"Cursors provide a row-at-a-time interface to the database. Using cursors, an application may obtain addressability to tuples stored in the database (one tuple at a time)..." (page 3, section 2.2.)

Applicant also argued that the rejection of claims 5, 13 and 21 is improper because the prior art reference does not perform all elements of the independent claims 1, 9 and 17. On the contrary, as discussed above, the 103 rejection of claims 1, 9, and 17 is proper and in view of the argument discussed above, the 103 rejection of claims 5, 13 and 21 should also be sustained.

In light of the foregoing arguments, the 35 U.S.C 103 rejections are hereby sustained.